

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Companion Life Insurance Company,)	Civil Action No. 3:15-3737-MGL
)	
Plaintiff,)	
)	
v.)	<u>ORDER</u>
)	
Michelle M. McCreary; Jean Bankett; American)	
Funeral Financial LLC; American Capital)	
Funding LLC; and C&J Financial LLC,)	
)	
Defendants.)	
)	

On September 17, 2015, Plaintiff Companion Life Insurance Company filed this civil action in interpleader. (ECF No. 1). The matter now comes before the Court for review of the Report and Recommendation (“Report”) of Magistrate Judge Shiva V. Hodges, to whom this case had previously been assigned. In the Report, the Magistrate Judge recommends that Defendant Jean Bankett’s Motion for Judgment on the Pleadings, (ECF No. 32),¹ be granted in part and denied in part. Specifically, the Magistrate Judge recommends that the motion be granted as to Ms. Bankett’s claim to the policy proceeds and denied as to Ms. Bankett’s request for attorney fees and interest. (ECF No. 51). Additionally, the Magistrate Judge recommends that judgment be entered in favor of Defendants American Funeral Financial LLC and C&J Financial LLC on Ms. Bankett’s liability to them on her respective assignments to them, as set out in ECF Nos. 41 and 42. Id. Objections to the Report were due by May 26, 2016. No party filed any objection to the Report, and the matter is now ripe for review by this Court.

¹ The Court notes that although this motion was inadvertently left unsigned by the filing attorney, and therefore not in compliance with Court rules, the issue was not raised either in any party’s response to the motion or in any objection to the Magistrate Judge’s Report. Therefore, the Court excuses the failure and deems the motion properly filed.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a *de novo* determination of any portion of the Report of the Magistrate Judge to which a specific objection is made. The Court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). In the absence of a timely filed Objection, a district court need not conduct a *de novo* review, but instead must “only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

Applying the above standards to the instant matter, the Court has carefully reviewed the record, applicable law, and the Magistrate Judge’s Report, (ECF No. 51), and finding no clear error in the Report, the Court adopts and incorporates it by reference. Accordingly, Defendant Bankett’s Motion for Judgment on the Pleadings, (ECF No. 32), is **GRANTED IN PART** and **DENIED IN PART**. Specifically, the motion is granted as to Ms. Bankett’s claim to the policy proceeds and denied as to Ms. Bankett’s request for attorney fees and interest. Additionally, judgment is entered in favor of Defendants American Funeral Financial LLC and C&J Financial LLC on Defendant Bankett’s liability to them on her respective assignments to them. *See* ECF Nos. 41 and 42.

IT IS SO ORDERED.

s/Mary G. Lewis
United States District Judge

May 31, 2016
Columbia, South Carolina

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.